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8 UNITED STATES BANKRUPTCY COURT
9 EASTERN DISTRICT COURT OF CALIFORNIA
10

11 In Re:

12 DAVID R. MICHAL,

13 Debtor.
14

Case No.: 2022-22056
CHAPTER 7
DCN: FEC-5

**PETITIONING CREDITORS' REQUEST
FOR JUDICIAL NOTICE**

15
16 Date: June 1, 2023
17 Time: 9:00 A.M.
18 Dept.: A
19 Judge: Hon. Frederick E. Clement
20

21 **TO THE HONORABLE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF**
22 **RECORD:**

23 Federal Rules of Bankruptcy Procedure Rule 9017 provides that "[t]he Federal Rules of
24 Evidence and Rules 43, 44 and 44.1 F.R.Civ.P apply in cases under the Code." Federal Rules of
25 Evidence, Rule 201(b) provides: "The court may judicially notice a fact that is not subject to
26 reasonable dispute because it: (1) is generally known within the trial court's territorial
27 jurisdiction; or (2) can be accurately and readily determined from sources whose accuracy
28 cannot reasonably be questioned."

1 A court may properly take judicial notice of matters of public record. See *Lee v. City of*
2 *Los Angeles*, 250 F.3d 688, 688-89 (9th Cir.2001). Moreover, Federal Rules of Evidence, Rule
3 201(c) provides: "The court: (1) may take judicial notice on its own; or (2) must take judicial
4 notice if a party requests it and the court is supplied with the necessary information." Courts
5 have judicially noticed proceedings in other courts of record. See *United States ex rel. Robinson*
6 *Rancheria Citizens Council v. Borneo, Inc.* (9th Cir. 1992) 971 F.2d 244, 248.

7 The party requesting judicial notice has the burden of persuading the trial judge that
8 taking judicial notice of a particular fact is appropriate. To meet its burden a party must:

- 9 1. Persuade the court that the particular fact is not reasonably subject
10 to dispute and is capable of immediate and accurate determination
11 by resort to a source 'whose accuracy cannot reasonably be
12 questioned,' and
- 12 2. Must supply the court with the source material needed to
13 determine the request is justified.

13 2 Barry Russel, *Bankr. Evid. Manual* §201:3 (2014ed.).

14 Petitioning Creditors hereby requests that the Court take judicial notice under Federal
15 Rules of Evidence Rule 201 of the following documents, submitted as exhibits in parties Joint
16 Exhibits binder on May 4, 2023, in advance of trial and in accordance with the Court's Pretrial
17 Order:

- 18 • **Exhibit A** – Judgment entered on February 10, 2017, against David Michal in the
19 Guilford County North Carolina General Court of Justice Superior Court Division, Case
20 No. 16 CVS 7519, in the sum of \$3,400,000.00.
- 21 • **Exhibit D** – Judgment held by Eldina Cross against David Michal in the Superior Court
22 of California, County of Nevada, Case No. CU17-082183 entered on July 13, 2018, in
23 the sum of \$1,078,778.70.
- 24 • **Exhibit E** – Amended Involuntary Petition filed in the United States Bankruptcy Court
25 Eastern District of California in Case No. 22-22056 filed on October 3, 2022, at Doc
26 #32.

- 1 • **Exhibit F** – Amended Certificate of Service of Summons to Debtor in Involuntary Case
2 filed in the United States Bankruptcy Court Eastern District of California in Case No.
3 22-22056 filed on August 24, 2022, at Doc #4.
- 4 • **Exhibit G** – Involuntary Debtor’s Statement of Creditor, Pursuant to Federal Rule of
5 Bankruptcy Procedure 1003(b), filed by David Michal in the United States Bankruptcy
6 Court Eastern District of California in case No. 22-22056 on November 1, 2022, at Doc
7 #42.
- 8 • **Exhibit H** – Declaration of David R. Michal dated June 9, 2022, in the Superior Court
9 of California, County of Shasta, in Case No. 188809.

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12 Dated: *May 2, 2023*

LAW OFFICE OF
HASTINGS & RON

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14 BY:  _____

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16 Attorney for Petitioning Creditors
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